

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,866
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner is a twenty-eight-year-old man with a 12th-grade education. Prior to July, 1991, he was employed as a security guard.

The petitioner was seriously injured in an automobile accident in July, 1991. He was out of work for several months. However, as of December, 1991, less than six months after his accident, the petitioner had returned to his security job and has been working thirty to forty hours per week since that time.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically

determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

There is no question in this case that the petitioner has not been disabled for the requisite twelve month period.

He has been performing substantial gainful activity since December, 1991. Therefore, he does not meet the above definition.¹ The Department's decision must be affirmed.

FOOTNOTES

¹See 20 C.F.R. § 416.920(b).

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